

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PRESERVE OUR ISLANDS, a Washington
Non-profit corporation; PEOPLE FOR PUGET
SOUND, a Washington Non-profit corporation;
and WASHINGTON ENVIRONMENTAL
COUNCIL, a Washington Non-profit
corporation,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS;
COLONEL MICHAEL MCCORMACK, in his
official capacity as District Engineer for the
Seattle District of the U.S. Army Corps of
Engineers; UNITED STATES NATIONAL
MARINE FISHERIES; D. ROBERT LOHN, in
his official capacity as Regional Administrator
for the Northwest Region of the National
Marine Fisheries Service; UNITED STATES
FISH AND WILDLIFE SERVICE and KEN S.
BERG, in his official capacity as Manager for
Western Washington Fish and Wildlife Office
of the U.S. Fish and Wildlife Service,

Defendants.

No. C08-1353 RSM

**STIPULATION AND ORDER SETTING
BRIEFING SCHEDULE ON CROSS
MOTIONS FOR SUMMARY JUDGMENT**

1 Plaintiffs Preserve Our Islands, Washington Environmental Council, and People for
2 Puget Sound (“Plaintiffs”), Defendants U.S. Army Corps of Engineers, Colonel Michael
3 McCormack, United States National Marine Fisheries, D. Robert Lohn, United States Fish &
4 Wildlife Service, and Ken S. Berg (“Federal Defendants), and Intervenor-Defendant
5 Northwest Aggregates Company (“Glacier”) (collectively, “the parties”) hereby enter into the
6 following stipulation regarding briefing on cross-motions for summary judgment.
7

8 The parties are in agreement that the above-captioned case constitutes “an action for
9 review on an administrative record” within the meaning of FRCP 26(a), regarding initial
10 disclosure, and within the meaning of FRCP 26(f) regarding participation in a discovery
11 conference and formulation of a discovery plan.
12

13 In light of this, the parties wish to propose a briefing schedule for resolution of the
14 matter on cross motions for summary judgment. Counsel of record for the parties have
15 conferred and reached agreement on a schedule for the briefing and submission of cross
16 motions, and hereby stipulate to the following schedule.

17 Because the cross-motions for summary judgment should resolve this matter in its
18 entirety, and due to the number of complex issues raised, the parties request leave of the court
19 to modify the page limits in Local Rule CR 7(e)(3).
20

21 Briefing Schedule

22 1. Plaintiffs shall file and serve their motion for summary judgment no later than
23 March 27, 2009. The brief is limited to 35 pages.
24
25

1 2. Federal Defendants and Glacier shall file and serve their briefs in opposition to
2 Plaintiffs' motion for summary judgment and any cross-motions for summary judgment no
3 later than April 27, 2009. The briefs are limited to 35 pages each.

4 3. Plaintiffs shall file any brief constituting a reply in support of their motion for
5 summary judgment and in opposition to any cross-motions for summary judgment filed by
6 Defendants no later than May 26, 2009. The brief is limited to 15 pages.

7 4. Federal Defendants and Glacier shall file any reply brief in support of their cross-
8 motions for summary judgment no later than June 15, 2009. The briefs are limited to 15
9 pages each.

10 5. Both Plaintiffs' motion for summary judgment and Defendants' cross motions for
11 summary judgment shall be noted on the Court's motion calendar for June 19, 2009. Oral
12 argument on the motions will be requested.

13 Extra-Record Evidence

14 In addition to the above briefing schedule, the parties agree and stipulate that no party
15 shall cite to, refer to, or otherwise rely upon evidence outside the administrative record.

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1 **SO STIPULATED.**

2 Dated this 21st day of January, 2009.

3 Respectfully submitted,

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5 GENDLER & MANN, LLP

6
7 /s/ David S. Mann

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1 **ORDER**

2 IT IS HEREBY ORDERED that the parties' Stipulated Motion Setting Briefing
3 Schedule on Cross-Motions for Summary Judgment is GRANTED.

4 Dated this 28th day of January, 2009.

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8 RICARDO S. MARTINEZ
9 UNITED STATES DISTRICT JUDGE

10 Presented by:

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12
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BRIEFING SCHEDULE ON CROSS MOTIONS
FOR SUMMARY JUDGMENT – 6
NO. 08-1353 RSM

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